

Summary
Texas Commission on Environmental Quality
Drinking Water Advisory Work Group
June 8, 2004
TCEQ Complex, Building F, Room 2210
12015 Park 35 Circle (I-35 North between Braker and Yager)
9:00 am - 12:00 noon

Welcome/Introduction - Buck Henderson

Federal Rules - Tony Bennett

- Drinking water rules are in various stages at TCEQ
- Will provide the graph of the rules timeline next time
- Radionuclides and Arsenic Rule:
 - Will be presented at the Commissioner Agenda July 28 for permission to publish in the Texas Register. The goal is to have this rule adopted in the last Agenda in November 2004. We have an extension agreement with EPA to promulgate Arsenic by January 2005 and Radionuclides by December 2004?
 - Confusing issues: Because the EPA effective date of the radionuclide rule was on Dec 7, 2003, we must implement as if it is in place. This is a requirement under the extension.
 - As part of the radionuclide implementation, TCEQ switched to entry point monitoring from distribution monitoring and have an increased number of violating systems.
- Long Term 2 Enhanced Surface Water Treatment Rule and Disinfection By-Product 2 Phase II - Federal rule to be finalized the summer of next year. This is in EPA's dark period (after they take comments determine what becomes the final rule).
- Ground Water Rule is expected to be finalized by EPA in the next 6 months. It has been proposed for a long time because States are contentious about the monitoring requirements specified in the rule
- Radon: We don't expect to see anything from EPA for more than one and half years. It has been put in the back burner.
- Lead/Copper: Because Washington D.C. has a problem with lead in distribution, EPA is reviewing the Lead/Copper rules. EPA has direct authority over D.C. States don't want Lead/Copper Rule changes because of this isolated problem in D.C. and only a few other cities.
- Total Coliform Rule - changes are expected and State wants certain changes.
- Distribution Rule already in 30 TAC §290 Subchapter D - pressure requirements, residual and flushing maintenance, but EPA seems determined to set distribution standards.

The TCEQ Regulatory Process - Tony Bennett

- TCEQ regulatory process: The new Commissioner and Chairman, Kathleen Hartnett White wants information about rules up-front earlier in the process.
- Complexity in the rule process is increased. There are more briefings with Executive Management and the Commissioners.
- Commissioners must approve the draft rule before we can take the draft rule to stakeholders
- Rules are on a 9 month track now.
- The stakeholders for drinking water rules are drawn from the DWAWG members.

Question? Is there a written document of the process? Yes, see the attached.

Rule Process

1. Rule initiation
 - a. Program determines need for rule and develops concept for the project
 - b. Program deputy director informs OEPAA deputy director
 - c. OEPAA deputy director discusses concept with Executive Director
 - d. Program drafts and submits initiation memo to OEPAA
 - e. Copy of initiation memo provided to all commissioners and executive assistants.
 - f. OEPAA review and approval of initiation memo
 - g. OEPAA assigns rule project manager and TR coordinator
 - h. OEPAA schedules for RPM and distributes initiation memo to liaisons for review
 - i. Liaisons attend RPM and assign team members
2. Rule development
 - a. Team determines timeline, milestones, need for advisory group input, public hearings
 - b. Team develops draft rule language
 - c. Rule project manager, with the team's assistance, develops ED approval memo
 - d. OEPAA management approves ED memo and schedules ED briefing
 - e. ED approval briefing is held
 - f. Commissioner briefings are offered and held as requested
 - g. Rule scope and/or language revised based upon briefings, as needed
 - h. Stakeholder, advisory group and public meetings held, as needed
 - i. Finalize rule package, including preamble
 - j. Edit and format by Texas Register team
 - k. Review and signoff by team, liaisons and management
 - l. ED and commissioner pre-filing briefings
3. Proposal agenda
 - a. Submit rule package to the Chief Clerk (20-day backup)
 - b. OGC review
 - c. Revised backup if necessary
 - d. Commission consideration and action
 - e. Documents finalized and coded by TR team, certified by legal, and submitted to Secretary of State
4. Public Comment and Review
 - a. Public comment period, including public hearings
 - b. Prepare summary and response to comments for adoption preamble
 - c. Brief management, ED, and commissioners
 - d. Finalize package
 - e. Edit and format by Texas Register team
 - f. Review and signoff by team, liaisons and management
 - g. ED and commissioner pre-filing briefings
5. Adoption agenda
 - a. Submit package to the Chief Clerk (20-day backup)
 - b. OGC review
 - c. Revised backup, if necessary
 - d. Commission consideration and action
 - e. Documents finalized and coded by TR team, certified by legal, and submitted to the Secretary of State

The Perchlorate Study Update - Tony Bennett

-Public Drinking Water has a contract with Texas Tech University Water Resource Center to study sources of perchlorate in panhandle Ogallala aquifer.

- Ending FY04 report due to us. The WRC did a presentation at TCEQ Trade Fair in May. WRC is still analyzing lots of data from coring and studying striations of contaminants to determine where perchlorate is.

- The Potential conclusions: 1) perchlorate is concentrated in the center of the high plains area and diffuses to the boundaries; 2) perchlorate is naturally occurring in the panhandle but other sites are known to be manmade

- Regulatory impact - this will add extra data into the EPA Maximum Contaminant Level review and Contaminate Candidate List Rule.

- Still huge debate on what health effects of perchlorate are. EPA toxicologists do not agree with toxicologists from the Department of Defense. The National Academy of Sciences will be the referee.

- Texas wanted an independent study of occurrence of perchlorate and will make sure that EPA has this information for their cost/benefit analysis.

PDW 30 TAC §290 Subchapter D Rules - Ruben Alvarado

-Both water systems and TCEQ staff are requesting changes to the rule.

- If there is a high request for exceptions for rule then should change the rule

-These are the changes that are desired:

1. materials and system design concerning plastic pipe - PVC is mentioned - draft rule for other pipe such as HDPE.

2. PDW is buried in requests for exception to use chloramines to reduce disinfection byproducts. The current process is a system must ask for exception, may have to submit a CT and plans review and specifications. Chloramines are nothing unique anymore so add to rule with guidance and public notice requirements

3. Air-gap for interconnect is also a common request. Pipe diameters used to be 2 inches and now 6 to 8 feet is the real situation. Need a rule for some other type of interconnect appropriate for large diameter pipe especially for MUDs in Harris County.

4. Possible valve types - there is now new acceptable technology.

-Ruben is holding off on Subchapter D rule changes until the Radionuclide/Arsenic Rule far enough along in the process.

-Is not planing to propose any radical rule changes.

- **Question?** Will Ruben look into the rules changes held over from Jack Schulze's Surface Water Rule? Examples are calibration and on-line pH meters.

- **Answer:** Ruben asks that the stakeholders send ideas for the new rule especially on acceptable products. Anything on Subchapter D.

- **Comment:** Commend Ruben on goal to make exceptions to the rule if commonly used. Discussion that don't want controversial products but those that are meet NSF/ANSI standards. **Comment:** People have been trying to propose this rule for the last 20 years. **Question?** What he needs to do and Ruben said he will send communication to stakeholders to give him information.

- Ruben will need to complete a "permission to propose the rules" request.

- Ruben clarified TCEQ staff position concerning NSF 60/61 for additives in contact with water. Apparently internally at TCEQ it was unclear what standards apply to what. ALL apply because contact with water. Anything in contact with drinking water must be NSF 60/61 approved since guidance from 1996. Restated internally and applies to exception requests and plans review process.

Source Water Assessment & Protection - Greg Rogers

-Source Water Assessment language. Originally too much was required so stake holders and TCEQ agreed on language for the template to be brief. EPA required a summary of source water assessment on the Consumer Confidence Reports (CCR) but what we wanted to wait until systems could review and comment on SWA's.

- Unfortunately the assessments are now 3 years old and won't reflect new potential sources of contamination (PSOCs) like a petroleum storage tanks (PST). SWAP is currently getting data sets and updating database. Working with suppliers on well locations and good data.

- Plan to run large systems this summer (those >10,000 in population).

- Will avoid a huge mailout by trying to provide electronic reports like in PDF unless the public water supply (PWS) requests it on paper.

- SWAP does not give anyone the source water assessment except for the PWS.

- SWAP wants more information on potential sources of contamination.

- Also plans to go into new assessment territory. At this time use GIS points instead of polygons. Polygons are more appropriate for landfills, concentrated animal feeding operations (CAFOs), large industrial sites, etc. Plans to test using polygons this summer on Houston, Sugarland, and LaPorte.

- SWAP does the assessment on sources but the Drinking Water Quality team needs assessments rolled up to entry points for compliance sampling of treated drinking water. Assessments may help target monitoring.

- Ground Water Rule - SWAP will determine the Hydrogeologically Sensitive Areas targeted for monitoring in the rule such as shallow, karst, igneous geology, poor well construction, and sources near potential sources of fecal contamination.

- PDW Forum will be Aug 3-4. Talks on all rules. Buck is not buying lunch.

- Source water assessment will be connecting the Safe Drinking Water Act (SDWA) with the Clean Water Act (CWA) by helping to assess for toxic algae. Assess reservoirs that have waste water and other pollutants that might create an environment for growth of toxic algae.

Drinking Water Quality Updates - Marie Knipfer

-Consumer Confidence Reports (CCR). Community PWS required to send to customers by July 1, 2004. TCEQ prepares CCR for water systems to help them meet compliance. Over 80% of the systems use our report or modify it. Mailout went out last week - 3-4 weeks behind schedule. Concerning the source water assessment language we added 4 paragraph sentence types for systems - Assessed, assessed w/purchase, purchase only, and no assess such as Edwards aquifer area.

-Disinfection Byproduct Compliance Update: Sampling is on track. TRWA has done a tremendous job meeting the demand of the sampling schedule for increased disinfection byproduct monitoring at all the water supplies - about 5400. We are very concerned about the number of exceedances and violations. Systems are using chloramines as a way to control DBPs. See table for current statistics.

MCL - Notice of Enforcement or Notice of Violation

Note that many systems in 2nd Quarter are the same as in 1st Quarter

Number of Systems Receiving Alert or MCL Letters for TTHMs in 2004

Type of System	Type of Letter	1 st Quarter	2 nd Quarter
Large >10K	Alert	2	0
MCL	2	1	
Medium<10K	Alert	171	50
MCL	7	26	
Small<0.5K	Alert Ground Water	0	5
Alert	0	7	

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Data up to 5/20/04

MCL - 80 ug/l (0.080 mg/l)

Highest running annual average - 190 ug/l (compliance)

Highest quarter average - 513 ug/l

No analysis for purchase water

Number of Systems Receiving Alert or MCL Letters for HAA5s in 2004

Type of System	Type of Letter	1 st Quarter	2 nd Quarter
Medium<10K	Alert	103	40
MCL	5	4	

Data up to 5/12/2004

MCL - 60 ug/l (0.060 mg/l)

Highest running annual average - 171 ug/l (compliance)

Highest quarter average - 684 ug/l

No analysis for purchase water

- Radionuclides and Arsenic - we are currently reviewing the TCEQ rule package Alicia Diehl prepared and is performing the crosswalk for EPA due by Friday. There are at least 52 new violators since we began sampling at the entry point instead of distribution. Uranium does not look like it will be a big issue but sampling data so far show that gross alpha does not correlate with uranium levels. Drinking Water Quality team is ready to implement the arsenic monitoring component of the rule. We have begun sampling individual entry points instead of allowing entry point compositing which may mask a problem entry point.

Security Issues-Salvador SeBasco-

As part of your water system's vulnerability exposure control, **do not** send completed Vulnerability Assessments to TCEQ (EPA is the enforcement agency in regards to the VA)

Do send completed Vulnerability Assessments to EPA by June 30, 2004 (if your system serves between 3,301 and 50,000 people) to satisfy the requirements of the federal Bioterrorism Act. You must also certify to the E.P.A. that you have developed and completed or ungraded your Emergency response plan based on your VA within six months of submitting your VA to the U.S.EPA. The E.P.A has released guideline regarding the proper protocol to follow when submitting your V.A.

After you have logged onto: www.vulnerability assessment.org

you will receive explicit instructions based on the EPA protocols regarding the proper procedure to submit your vulnerability assessment to EPA.

Question? Are we required to have control over Homeland Security at the Water system level? Buck Henderson answered, Yes, due to the vulnerabilities that the water systems may have assessed through the Vulnerability Assessment. The lessons learned from the process of completing the VA and submitting it to EPA is what is later used by the water system to build greater control in their Emergency Response Plan. And, about the State of Texas Homeland Security part of an Agency Core Coalition, Glenn Shankle is a member of The Governor's Critical Infrastructure Council which includes water supplies and waste water.

Question? What service do you provide Salvador? Salvador was hired by the PDW Section and substitutes for Buck and other PDW staff involved with Homeland Security as needed. He came here to help build a business process. Salvador will coordinate training outreach and legislative activities between agencies responsible for homeland security. Salvador said, "Government is here to help." Salvador said his position is 100% funded by an EPA grant and that the VA and Emergency Response plan certification action is enforced by the EPA.

-TCEQ will try to help systems with guidance. They have a June 30th deadline to complete and send a Vulnerability Assessment (VA) to EPA directly to EPA.

- Tony is still somewhat involved in homeland security and Salvador's position is funded by an EPA grant and will slowly be brought aboard to manage some of the Homeland Security grants he managed before Salvador's arrival April 1, 2004. -Salvador clarified the deadlines as to when systems should have already sent VA by.

- The Emergency Response Plan is tied with the VA. Systems are waiting until the last minute to send in VA because as soon as they do send the VA to EPA, they then have 6 months to complete an Emergency Response Plan and submit the certification of completion to EPA.

- Tony provided some background information on Education Materials for Homeland Security. TCEQ contracted with the University of Texas to create a presentation of various topics for meetings. It will be available in various play formats. The new education material is to fill holes that currently exist.

- Tony wants to communicate information by e-mail and for systems that don't have by fax until there is better technology for communication.

-An Industrial Plant Representative shared some concern: about PWS (like his) getting emergency messages from too many organizations such as federal and state, FBI. He wants better coordination.

- Much discussion followed and the reply was that the updated list is provided to the Governor's Division of Emergency Management.

- Those involved in Critical Infrastructure are working on it on an ongoing basis as the lists inherently need changes as people move on and changes occur in the agency. It is OK at the TCEQ Water Supply Division but trying to get communication at Agency level.

- Buck discussed a task force exists concerning waste, PWS and industrial plants and they are trying to work on it.

-Question? if these training materials can be rolled out by the by the August 3 and 4th Public Water Supply Conference.

-Answer: Tony wants a separate train the trainer session that would be provided at no cost and include CEU credits.

- Steve Walden suggested that alert notification is held in an Critical Infrastructure database managed by Mark or Matt Baker. This would eliminate notification duplication by TCEQ; therefore, one distribution list.

- Further discussion about emergency notifications.

CCR-Debra Cerda

-CCR - Consumer Confidence Reports - original State Rule adopted August 2000.

- Updating the state rule with federal changes. The major change is to requiring the Certification of Delivery to customers and a copy of the CCR to TCEQ by July 1 not August 1.

- Technical correction will be made

- Comments period for rule is expected to start sometime in August with adoption by December.

- These rule changes will not affect Source Water Assessment requirements.

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SRF - Doug Holcomb

-TCEQ is working with TWDB to administer FY05 funding cycle for intended use plan solicitation -58 PWS were ranked that responded. TWDB will have a July hearing for the Intended Use Plan which will include the prioritization ranking for these 58 PWSs. -The whole priority ranking needs to be reviewed, because responses to the solicitations are declining. In the past TWDB sent solicitations to TCEQ for review. After some discussion, the workgroup decided to set up an ad hoc committee to provide input on the prioritization ranking process. DWAWS representatives will be contacted so they can participate if they desire. Any comments or ideas for prioritization process, please contact Doug, or Tony at TCEQ or Mike Lynn with TWDB.

Utilities & Districts - Doug Holcomb for Michelle Abrams

-Chapter 291 Utility Regulations is open for legislative rule implementation. The ED has been briefed on proposed rule changes to Ch 291 which includes issues on submetering, exemptions and use of penalties by WSC for violations of water allocations.-Chapter 293 - District Administration is also open for legislative rule implementation. After stakeholder input the ED was briefed on proposed revisions that include recreational facility financing issues. - Chapter 292 River Authorities, Chapter 293 Districts, Chapter 301 Levy are in the first stages of quad review.

Operator Certification Update - Terry Thompson

- Ms Saldino was introduced as the training specialist that will perform a job analysis for back flow inspectors
- June 30 to July 2 is the TCEQ Instructor's Seminar at the Hilton North near Highland Mall
- A variety of PDW, licensing, instructional education class room delivery
- They are developing new licensing pocket card certificate that can be folded for mail saving \$30,000 to produce test score.
- Chapter 30 rule open for revision:1) last one was rushed and not right, 2) 290 doesn't mesh with 30
- Writing contract for training administrators at small systems. Contact Noreen Helm at 239-3918
- Question?** To Ms.Saldino - why do a job analysis? To determine what they do in order to better train them, better rules and better testing. Will help validate licensing program.
- Stakeholder commented that there is a lack of documentation of certification hours
- A new database called CCEDS (Consolidated Compliance and Enforcement Data System) that now houses the data. However, 47,000 training records were uploaded to CCEDS because too many to data entry. There were glitches.
- If you see any problems with your certification hours call Operator Certification to verify and update.
- Eventually want the certification on the internet.
- An issue was brought up on the student ID VS SS# on certification TCEQ needs to make the transition.
- New information on license and hours: 1) the application encrypts the SS#; 2) an alpha number is outputted for EACH license you hold; 3) license # automatically ties to training in CCEDS.
- It was suggested that proactive training is needed on process of licensing and reporting, etc.
- This is done in their training.

Drought-Mike Lannen

- Buck announced that Mike Lannen would be retiring after 25 years with the State
- Some persistent drought in some areas especially West Texas and Panhandle. About 40 are on mandatory rationing and another 30 on voluntary.
- Drought contingency plan identifies triggers for action.
- New surface water systems are in drought database - those on Lake Spence, Ivey, Meridith.
- Numbers are better - from 58 to 52 systems.
- 6 resolve trigger on contingency plan
- Summer usage will trigger contingency plan action.

Field Operation Division - Bob Burrell

- Work plans are going well and ahead of schedule
- CCI work plan
- Stated that the Legislative Budget Board controls workplan
- FOD work plan investigation numbers are submitted to the Legislative Budget Board and we try to stay within the total rolled up number. However, we are running ahead on our numbers, thus we are redirecting our resources to other work".

Other Issues of Immediate Concern - Buck Henderson

Ken Petersen

- Heads up to stakeholder group concerning "municipal setting designation" in the "solid waste bill" departs from agency historical response to ground water contamination. Outlaw wells that impact PWS such as those with brackish water. - Solid Waste Stakeholder-self implementation
- Other issues out there
- Head up on rules about ground water supply used as potable water
- Conservation Implementation Task Force with TWDB as lead (Carol Baker) - heads up - closed comment. Draft BMPs are very prescriptive for voluntary BMPs. Stakeholders need to make sure this stays guidance and not law.
- Fuentes bill and other bills not planned because stake holder complaints

Steve Walden- discussion about bill that contamination in municipalities don't need to do, so don't clean in theory. But what if need to use? Chet Clark is the lead in Remediation.

The Bill outlaws the use of ground water in the ETJ unilaterally. Must notify PWS retail utility if propose "municipal setting designation". Municipality must justify but can still issue the "designation."

Robert Stewart - TRWA

- Office Professional Conference coming
- Technical Training Conference in Galveston
- District Conference
- See TRWA website for information

Terry Thompson

- TCEQ Instructor's Training June 30-July2

Buck Henderson

- Aug 3rd and 4th PDW Conference at the Red Lion. Two days with lunch included. Brochure mailed out. Talks from all PDW including Plan Review Team, Business and Financial information. Exhibitors. Checking on CEU credits.

Next DWA WG Meeting scheduled for **September 14, 2004**